



Department of Defense DIRECTIVE

December 24, 1984
NUMBER 5210.48

SUBJECT: DoD Polygraph Program

USD(P)

- References:
- (a) DoD Directive 5210.48, "Polygraph Examinations and Examiners," October 6, 1975 (hereby canceled)
 - (b) DoD 5025.1-M, "DoD Directives System Procedures," April 1981, authorized by DoD Directive 5025.1, "Department of Defense Directives System," October 16, 1980
 - (c) DoD Directive 5400.11, "Department of Defense Privacy Program," June 9, 1982
 - (d) Title 10, United States Code, Sections 801-940, Uniform Code of Military Justice, Article 31.b.
 - (e) Executive Order 12356, "National Security Information," April 2, 1982
 - (f) DoD 5200.1-R, "Information Security Program Regulation," August 1982, authorized by DoD Directive 5200.1, "DoD Information Security Program," June 7, 1982

A. REISSUANCE AND PURPOSE

This Directive:

1. Reissues reference (a) to update policy governing the use of the polygraph within the Department of Defense, including the selection, training, and supervision of polygraph examiners; the procurement and testing of equipment; and the reporting of data related to polygraph activities.
2. Authorizes the issuance of DoD 5210.48-R, "DoD Polygraph Program," consistent with reference (b).

B. APPLICABILITY AND SCOPE

1. This Directive applies to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to collectively as "DoD Components").
2. It applies to DoD polygraph examinations that involve DoD contractor personnel and other persons who are affiliated with the Department of Defense.

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C. POLICY

It is DoD policy to administer polygraph examinations only as authorized, and in the manner prescribed, by this Directive and DoD 5210.48-R. DoD Components shall ensure that, in implementing this Directive and DoD 5210.48-R, adequate safeguards are provided for the protection of the rights and privacy of individuals considered for or subjected to polygraph examination.

D. PROCEDURES

1. The polygraph shall be employed only when the person to be examined has consented to the examination. This consent must be in writing, unless the examination is being administered for purposes described in paragraph D.12.h., below.

2. The individual being considered for polygraph examination shall be given timely notification of the date, time, and place of the examination as well as his or her right to obtain and consult with legal counsel. Legal counsel may be available for consultation during the polygraph examination.

3. Individuals to be examined in examinations other than those conducted under the provisions of paragraphs D.12.e. and h., below, shall, before administering of the polygraph examination, be advised of their privilege against self-incrimination. The examinee may, upon his or her own volition, or upon advice of legal counsel, terminate the polygraph examination at any time.

4. No relevant question may be asked during the polygraph examination that has not been reviewed with the examinee before the examination. Moreover, all questions asked concerning the matter at issue, other than technical questions necessary to the polygraph technique, must have a special relevance to the subject of the inquiry. The probing of a person's thoughts or beliefs and questions about conduct that has no security implication or is not directly relevant to an investigation are prohibited (such as religious beliefs and affiliations, beliefs and opinions regarding racial matters, and political beliefs and affiliations of a lawful nature).

5. When use of the polygraph is authorized pursuant to paragraphs D.12.b., c., and g., or D.13.c., below, technical questions utilized in such examinations shall be constructed to avoid embarrassing, degrading, or unnecessarily intrusive questions. Additionally, except for polygraph examinations conducted under the provisions of paragraph D.13.a. of this Directive, all technical questions to be used during such examinations must be reviewed with the examinee before being posed to him or her for response.

6. Polygraph examinations shall be considered as supplementary to, not as a substitute for, other forms of investigation that may be required under the circumstances. Moreover, no adverse action will be taken solely on the basis of a polygraph examination chart that indicates deception, except as provided in subsection D.9., below.

7. Applicants for employment, assignment, or detail to positions requiring access to specifically designated information in special access programs, assignment or detail to the Central Intelligence Agency, employment in and

assignment or detail to critical intelligence positions in the Defense Intelligence Agency, or employment in and assignment or detail to the National Security Agency; (NSA), who refuse to take a polygraph examination shall not be selected or assigned.

8. Persons who refuse to take a polygraph examination in connection with determining their continued eligibility for access to specifically designated information in special access programs, in accordance with paragraph D.12.b., below, to include incumbents of positions subsequently determined to require such access, may be denied access to the classified information in question, provided, however, that, with the exception of the NSA, the DoD Component concerned shall ensure that such person is retained in a position of equal pay and grade that does not require such access, or arrange like employment for such individual at another DoD Component.

9. When deception is indicated by the examiner's interpretation of polygraph charts in polygraph examinations conducted under the provisions of paragraphs D.12.b. and D.13.c., below, indepth interview of the subject will be undertaken by the examiner, immediately following the running of the chart, to resolve any indication of deception. If an indication of deception cannot be resolved through such means, the subject will be so advised and the results of the examination forwarded to the requesting agency. If, after reviewing the polygraph examination results, the requesting agency determines that they raise significant question relevant to the subject's clearance or access status, the subject shall be given an opportunity to undergo additional examination by the examining agency, using the same or a different examiner. If such additional examination is not sufficient to resolve the matter, a comprehensive investigation of the subject shall be undertaken, utilizing the results of the polygraph examination as an investigative lead. If such investigation develops no derogatory information upon which an adverse action independently may be based, no such action shall be permitted, unless approved by an authority designated in subsection G.1., below, in specific cases, based upon his or her written finding that the information in question is of such extreme sensitivity that access under the circumstances poses an unacceptable risk to the national security.

10. Adverse action shall not be taken against a person for refusal to take a polygraph examination in criminal or unauthorized disclosure cases.

11. A refusal to consent to a polygraph examination shall not be recorded in the person's personnel file or any investigative file, nor shall a person's supervisor, and in the case of a contractor employee, the person's employer, be informed of the refusal, unless such actions are necessary in support of action to be taken under the provisions of subsection D.8., above. Refusal to take a polygraph examination shall be given the full privacy protection provided for in DoD Directive 5400.11 (reference (c)).

12. Polygraph examinations may be authorized only for the following purposes:

a. To supplement the investigation of a crime involving an offense punishable under Federal law, including the Uniform Code of Military Justice (reference (d)), by death or confinement for a term of 1 year or more.

b. To assist in determining the initial eligibility and aperiodically thereafter, on a random basis, to assist in determining the continued eligibility of DoD civilian, military, and contractor personnel for access to specifically designated information protected within special access programs, established under E.O. 12356 (reference (e)) and DoD 5200.1-R (reference (f)). Any use of the polygraph for such purpose shall have the prior approval of the Deputy Under Secretary of Defense for Policy (DUSD(P)), and be based upon the request of the head of the DoD Component concerned, who shall certify in writing that unauthorized disclosure of the information in question could reasonably be expected to: (1) jeopardize human life or safety; (2) result in the loss of unique or uniquely productive intelligence sources or methods vital to U.S. security; or (3) would compromise technologies, plans, or procedures vital to the strategic advantage of the United States. The scope of any polygraph examination administered for such purpose shall be limited to the counterintelligence topics prescribed in Appendix B of DoD 5210.48-R.

c. To supplement the investigation of an alleged unauthorized disclosure of classified information.

d. To supplement the investigation of alleged acts of espionage, sabotage, or terrorism.

e. To assist in determining the initial eligibility of foreign nationals for access to classified information and aperiodically thereafter to ensure access to classified information is clearly consistent with the interests of national security.

f. To resolve serious credible derogatory information, with the consent of the examinee, developed in connection with a personnel security investigation of DoD civilian, military, or contractor personnel, that cannot be resolved in any other manner.

g. To assist, in a limited number of cases when operational exigencies require the immediate utilization of a person's services before the completion of a background investigation in determining the interim eligibility of DoD civilian, military, and contractor personnel for access to Sensitive Compartmented Information (SCI). In this instance, the scope of the polygraph examination shall be limited to the counterintelligence topics prescribed in Appendix B of DoD 5210.48-R.

h. To determine the suitability, reliability, or credibility of personnel who are used as, proposed for use as, or who purport to be, agents, sources, or operatives in foreign intelligence or counterintelligence activities.

i. When requested by the subject of a criminal, counterintelligence, or personnel security investigation, as a means of exculpation, with respect to allegations or evidence arising in the course of such investigation; or

j. To provide polygraph service or support to entities other than DoD Components, provided the use of the polygraph in such instances is consistent with this Directive and DoD 5210.48-R, and has been approved by the DUSD(P), or his designee, the Director, Counterintelligence and Investigative Programs, Office of the DUSD(P).

13. Polygraph examinations shall be required on an interim and aperiodic basis for:

a. DoD civilian, military, contractor, and General Service Administration personnel, to assist in determining their eligibility for initial or continued employment, assignment, or detail for duty with the NSA in activities that require access to sensitive cryptologic information, or to spaces where sensitive cryptologic information is produced, processed, or stored. When military personnel are assigned or detailed for duty with NSA, the scope of such examinations shall be limited to the counterintelligence topics prescribed in Appendix B of DoD 5210.48-R.

b. DoD civilian and military personnel, to assist in determining their eligibility for assignment or detail to the Central Intelligence Agency (CIA) in positions where polygraph examinations are required by the CIA; or

c. DoD civilian, military, and contractor personnel, to assist in determining their eligibility for employment with or assignment to the Defense Intelligence Agency (DIA) in positions that have been designated by the Director, DIA, as critical intelligence positions, provided that the scope of such examinations shall be limited to the counterintelligence topics prescribed in Appendix B of DoD 5210.48-R.

E. RESPONSIBILITIES

1. The Deputy Under Secretary of Defense for Policy shall have overall responsibility for the DoD Polygraph Program, and shall:

a. Establish policies and procedures for the DoD Polygraph Program.

b. Approve use of the polygraph pursuant to paragraph D.12.b., above, and monitor such use as may be appropriate to ensure compliance with this Directive.

c. Coordinate with the Inspector General, Department of Defense (IG, DoD), all matters concerning use of the polygraph in connection with the investigation of criminal offenses.

d. Issue and maintain DoD 5210.48-R consistent with the provisions of DoD 5025.1-M (reference (b)).

e. Conduct an active oversight program to ensure compliance with the requirements of the DoD Polygraph Program.

f. Authorize use of the polygraph within the Office of the Secretary of Defense, the Organization of the Joint Chiefs of Staff, and Defense Agencies other than those identified in subsection E.3., below, and when use of the polygraph is contemplated for more than one DoD Component.

g. Ensure through appropriate means that the number of persons to whom polygraph examinations are administered pursuant to subsections D.8. and 9.; paragraphs D.12.b., e., and g; and paragraph D.13.c. does not exceed 3,500.

2. The Inspector General, Department of Defense; the Secretaries of the Military Departments; and the Directors of the National Security Agency/Chief, Central Security Service (CSS), Defense Intelligence Agency, and Defense Investigative Service (DIS) shall:

a. Authorize use of polygraph examinations within their respective areas of responsibility. In this regard, the authority of the Director, DIS, and the IG, DoD, is as follows:

(1) The Director, DIS, may authorize use of the polygraph only with respect to the following categories of personnel:

(a) Personnel of DIS.

(b) Foreign nationals and immigrant aliens (in the continental United States) when polygraph examination is necessary to complete the overseas portion of a personnel security investigation.

(c) DoD civilian, military, and contractor personnel of DoD Components, to resolve credible derogatory information developed during the course of a personnel security investigation undertaken to determine the eligibility of such personnel for access to classified information other than SCI.

(d) DoD contractor personnel who require access to specifically designated special access program information, provided that such examinations shall be limited to the counterintelligence areas prescribed in Appendix B of DoD 5210.48-R.

(2) The IG, DoD, may authorize use of the polygraph only with respect to the following categories of personnel:

(a) Personnel of the IG, DoD.

(b) Other DoD civilian, military, and contractor personnel when such personnel are involved in a criminal or other case being investigated by the IG, DoD, and covered by this Directive and DoD 5210.48-R.

b. Delegate authority to authorize polygraph examinations to no lower level than the heads of security and investigative agencies, or their specific designees. The number of persons delegated authority under this paragraph shall be held to the minimum required to meet operational needs.

c. Submit semiannual reports to the DUSD(P) as of December 31 and June 30, before the 30th day of January and July respectively, on polygraph activities in the format provided in Appendix A of DoD 5210.48-R.

3. The Commanders of the U.S. Army Criminal Investigation Command and the U.S. Army Intelligence and Security Command; the Heads of the U.S. Naval Investigative Service, the U.S. Marine Corps Law Enforcement Section, and the U.S. Air Force Office of Special Investigations; the U.S. Air Force Assistant Chief of Staff, Intelligence; the Directors for the National Security Agency/Chief, Central Security Service, Defense Intelligence Agency, and Defense Investigative Service; and the Chief, Office of Investigations, IG, DoD,

are the only DoD officials whose activities are authorized to conduct polygraph examinations, acquire or possess polygraph equipment, or to have polygraph examiners.

4. Heads of DoD Components that do not have a polygraph capability, or their designees, may request polygraph support from activities identified in subsection E.3. Such requests shall substantiate that the requested polygraph examination is consistent with the provisions of this Directive and DoD 5210.48-R.

5. The Secretary of the Army, or his designee, shall establish and manage training programs for DoD polygraph examiners, except that the Director, NSA/Chief, CSS, may approve alternative courses for training of NSA/CSS polygraph examiners. Any other training programs must be approved by the DUSD(P).

F. APPEALS

Adverse actions taken as a consequence of procedures authorized by this Directive and DoD 5210.48-R are appealable in accordance with applicable personnel or security appeals procedures.

G. WAIVERS AND EXCEPTIONS

1. Exceptions under the provisions of subsection D.9. must be personally approved by one of the Secretaries of the Military Departments or the Director, NSA, for their respective components, or the Secretary or Deputy Secretary of Defense for other DoD Components.

2. Except as provided in subsection G.1., above, the DUSD(P), or his designee, the Director, Counterintelligence and Investigative Programs, Office of the DUSD(P), are the only officials authorized to approve waivers or exceptions to the provisions of this Directive or DoD 5210.48-R.

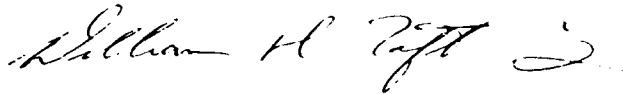
H. INFORMATION REQUIREMENTS

The reporting requirement in paragraph E.3.c. has been assigned Reports Control Symbol DD-POL(SA)1361. For the purposes of this requirement, a polygraph examination is considered to have occurred when at least one of the testing phases defined in DoD 5210.48-R has been initiated.

I. EFFECTIVE DATE AND IMPLEMENTATION

Under the provisions of Section 1016(a), Omnibus Defense Authorization Act of 1985, authority to expand use of the polygraph in DoD beyond that authorized by DoD Directive 5210.48 (reference (a)) has been limited to a test program, involving not more than 3,500 persons to be conducted during Fiscal Year 1985. Accordingly, authority to implement the following paragraphs of this Directive is limited to the congressionally mandated test that will expire September 30, 1985, unless extended by the Secretary of Defense in coordination with the United States Congress (see subsections D.8. and 9.; paragraphs D.12.b., e. and g.; paragraph D.13.c.; and paragraph E.1.g.).

This Directive is effective immediately. Forward two copies of implementing documents to the Under Secretary of Defense for Policy within 120 days.

A handwritten signature in cursive script, reading "William H. Taft, IV".

William H. Taft, IV
Deputy Secretary of Defense